



ZFK

Docket No.: M4065.0939/P939
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Howard E. Rhodes

Examiner: T. T. Nguyen

Application No.: 10/695,160

Confirmation No.: 7143

Filed: October 29, 2003

Art Unit: 2818

For: PINNED PHOTODIODE STRUCTURE AND
METHOD OF FORMATION

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
MS: Amendment
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is in response to the Election of Species Requirement dated July 14, 2005. Applicant hereby elects Species I, claims 1-29 and 235 for continued examination with traverse. Applicant traverses the Election of Species Requirement for at least the following reasons.

First, the Examiner states that Species I relates to a photoconversion device without a third doping region while Species II relates to a photoconversion device with a third doping region. Applicant respectfully directs the Examiner's attention to dependent claim 5, which recites a "third sub-region." Moreover, claim 235 recites, *inter alia*, "a first region . . . a separation region . . . and a second region." Consequently, species I, independent claim 1, can be used at least in species II, independent claim 30.

Claim 1 recites a photoconversion device comprising, *inter alia*, "a substrate . . . a first region . . . and a second region doped to a second conductivity type located beneath said first doped region for collecting photogenerated charges." Similarly, claim 30 recites a photoconversion device comprising, *inter alia*, "a substrate . . . a first region . . . a second region . . . and a third region doped to a second conductivity type located beneath said first doped region for collecting photogenerated charges." At least claim 1 can be used in Species II, claim 30. As a result, at least claims 30-50 should be examined along with claims 1-29 and 235.

Second, Applicant respectfully submits that given the circumstances of this case, it would *not* be a serious burden for the Examiner to examine all of the claims at this time. M.P.E.P. § 803 provides that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Finally, the Examiner previously issued *three* Restriction/Election of Species Requirements dated April 6, 2005, January 21, 2005, and May 27, 2005, respectively. In the May 27, 2005 Restriction Requirement, the Examiner stated that claims 1-122 and 234-239 were drawn to a semiconductor device, classified in class 257, subclass 292 (pg. 2). In the April 6, 2005 Restriction Requirement, the Examiner *again* stated that claims 1-122, 234-236, and 239 were drawn to an image pixel semiconductor device, classified in class 257, and subclass 292. In the May 27, 2005 Election of Species Requirement, the Examiner stated that Group I, claims 1-67 and 235, were drawn to a photoconversion device, classified in class 257, subclass 292.

Consequently, the Examiner has conducted at least *three* previous searches which encompasses Group I, claims 1-67 and 235, classified in class 257, subclass 292. In fact, in the present Election of Species, the Examiner does not state the classification or subclass of the different species because they are *the same*, i.e., classified in class 257, subclass 292. As a result, it is *not* a serious burden for the Examiner to examine all the claims at this time since the Examiner could *and* should have required this election in at least the *previous* election of species dated May 27, 2005.

The Examiner is respectfully requested to *withdraw* the present election of species and examine claims 1-67 and 235, since the Examiner previously required an election of species in which these claims were elected for continued examination in the Response to Election of Species filed June 27, 2005. At that time, the Examiner indicated that *only* two species existed between Group I, claims 1-67 and 235, and Group II, claims 68-122, 234, 236, and 239.

An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

Dated: August 5, 2005

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

DICKSTEIN SHAPIRO MORIN &

OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicant